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REMARKS

Claims 1-5 were pending in the present application. The applicants respectfully request reconsideration and allowance of the present application in view of the above amendments and the following remarks.

The applicants again note with appreciation the acknowledgement of the claim for priority under section 119 and the notice that all certified copies of the priority documents have been received.

Claims 1-5 stand rejected under 35 USC §103(a) as being allegedly unpatentable over Anhegger et al., U.S. Patent No. 5,031,302 (hereinafter "Anhegger") in view of Jenkins et al., U.S. Patent No. 4,813,453 (hereinafter "Jenkins"). The rejection is respectfully traversed.

Applicants first note that claims 1 and 5 are amended herein to more clearly distinguish over the applied references by reciting, for example, *inter alia*, a gasket ring securing a second sealing property between the fuel cap and the retainer. In accordance with the present invention as recited for example, in claims 1 and 5, as amended, a gasket ring (62) exists on the upper side of the retainer (3) to secure a sealing property between the fuel cap (6) and the retainer(3). Accordingly, a sealing member (4) is needed between a neck body (2) and the retainer (3). It is important to note that in contrast with the prior art and the applied references, when cracking occurs in a filler neck body near a flange portion, it is essential that the claimed sealing member is disposed *closer to a tank than the flange* (210) in order to prevent fuel vapor from being released to the atmosphere (see, e.g. Figure 5 of the present application).

In Anhegger, an elastic sealing ring (21) is described as being disposed between a filler pipe (1) and an insert (3). However, since Anhegger is primarily concerned with the elastic sealing ring (21), Anhegger fails to disclose or suggest a filler neck body having a flange as in the claimed invention and as admitted by the Examiner. Accordingly, Anhegger necessarily fails

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to teach or suggest the claimed relationship between the flange and the sealing member, e.g. the sealing member is disposed closer to the fuel tank than the flange of the neck body.

To account for the deficiency Jenkins is provided as allegedly teaching the flange.

Applicants first note that Jenkins fails to teach or suggest the claimed gasket ring to secure a sealing property between the fuel cap and the retainer. Further, in Jenkins, there is no sealing member between body 26 and filler tube 10. A close review of, for example, Figure 2 of Jenkins reveals that a cap gasket is attached to the upper end of filler tube 10. As a result, fuel is sealed between the cap gasket and filler tube 10 and thus *there is no need for a sealing member*, as in the claimed invention, between body 26 and filler tube 10. Because there is no need for the sealing member, there is also no teaching or suggestion of a positional relationship between a sealing member and a flange such as seat 50.

At best, sealant means 46 secures a sealing property between a cylindrical ring-like member 44 and filler tube 10 *only during the time when fuel is supplied*. As a result, fuel vapor can flow into canister 20 during fuel supplying. More specifically, a fuel nozzle is sealed by sealant means 56 at the time of fuel supply and the cylindrical ring-like member 44 to which sealant means 56 is mounted and filler tube 10 are sealed by sealant means 46. As a result of the sealing, fuel vapor flows into canister 20, but, again, only during fuel supplying and not when the fuel cap is secured.

In contrast, in accordance with the present invention, at the time of supplying fuel and at the time of installing the fuel cap, the sealing member (4) is needed and can be distinguished from the sealant means 46 of Jenkins particularly in view of the claimed positional relation and that sealant means 46 does not provide a sealing function when the fuel cap is secured. Accordingly, Anhegger and Jenkins alone or in combination fail to teach or suggest all the claimed features as required.

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It should further be noted that no evidence has been provided of a suggestion in either Jenkins or Anhegger sufficient to motivate one of ordinary skill in the art to make the combination. Still further, the Examiner has improperly relocated the flange of Jenkins from its original position to a position in Anhegger where no flange is present. There is no teaching in Anhegger or Jenkins of where a prospective flange would be located. Since the claimed feature deals specifically with locating the sealing member relative to the flange, a more detailed teaching or suggestion of where a flange would be located is required to support an obviousness rejection. Applicants contend that the arbitrary relocation of a component from one reference to a specific position in another reference to arrive at a claimed device is a classic example of the application of hindsight reconstruction and piecemeal application of the teachings of the references using Applicants' specifications as a guide and cannot be sustained.

Accordingly, for at least the reasons set forth hereinabove, a *prima facie* case of obviousness has not properly been established in that the applied art combination is improperly motivated and still fails to teach or suggest all the claimed features as required. It is respectfully requested that the rejection of independent claims 1 and 5 be reconsidered and withdrawn.

Claims 2-4, by virtue of depending from independent claim 1, are allowable for at least the reasons set forth hereinabove. It is respectfully requested therefore that the rejection of claims 2-4 be reconsidered and withdrawn.

Claims 1-5 stand rejected under 35 USC §103(a) as being allegedly unpatentable over Anhegger in view of Hubbard et al., U.S. Patent No. 4,185,844 (hereinafter "Hubbard"). Claims 1 and 5 are amended herein to distinguish over the applied references.

Further to the remarks noted above with regard to Anhegger, Hubbard describes a retainer including a member in which an internal thread of maintaining a cap is formed and a fuel cap is attached to the upper end of the retainer. The retainer of Hubbard includes flange 20. A

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fuel deliver tube 22 is bonded to the side of an outer periphery of the retainer. Hubbard fails to describe the problem of cracking and near a flange portion of a neck body. As can be seen in Figure 2 of Hubbard, if cracking were to occur in the vicinity of the flange 20, vapor would be released into the atmosphere. Further, if cracking were to occur near flange 20 there is no place to provide a seal such as with the sealing member of the claimed invention. Accordingly, Hubbard, alone or in combination with Anhegger fails to teach or suggest all the claimed features.

It should further be noted that no evidence has been provided of a suggestion in either Hubbard or Anhegger sufficient to motivate one of ordinary skill in the art to make the combination. Still further, as noted above, the Examiner has arbitrarily and improperly relocated the flange of Hubbard from its position to a position in Anhegger where no flange is present and with no teaching or suggestion of where to locate the flange. Applicants again contend that this is a classic example of the application of hindsight reconstruction and piecemeal application of the teachings of the references using Applicants' specifications as a guide and cannot be sustained.

Accordingly, for at least the reasons set forth hereinabove, a *prima facie* case of obviousness has not properly been established in that the applied art combination is improperly motivated and still fails to teach or suggest all the claimed features as required. It is respectfully requested that the rejection of independent claims 1 and 5 be reconsidered and withdrawn.

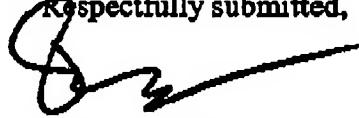
Claims 2-4, by virtue of depending from independent claim 1, are allowable for at least the reasons set forth hereinabove. It is respectfully requested therefore that the rejection of claims 2-4 be reconsidered and withdrawn.

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In view of the foregoing, the applicants respectfully submit that the present application is in condition for allowance. A timely notice to that effect is respectfully requested. If questions relating to patentability remain, the examiner is invited to contact the undersigned by telephone.

Please charge any unforeseen fees that may be due to Deposit Account No. 50-1147.

Respectfully submitted,



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